

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-00143-MR**

**COREY STEWART, as Administrator)
of the Estate of Charles Stewart, Jr.,)
et al.,)**

Plaintiffs,)

vs.)

ORDER

**AKRON GASKET & PACKING)
ENTERPRISES, INC., et al.,)**

Defendants.)

THIS MATTER is before the Court on the Defendant Daniel International Corporation's Motion for Partial Summary Judgment [Doc. 21].

This matter was remanded from the United States Judicial Panel on Multidistrict Litigation on January 23, 2014. [Doc. 7]. Following remand, the parties submitted a status report to the Court, advising *inter alia* that the MDL Court had adjudicated all outstanding motions, including a motion for summary judgment filed by Defendant Daniel International Corporation. [Doc. 19 at 2]. The parties further advised the Court that they were in agreement that the case was ready to be set for trial. [Id.]. In light of the

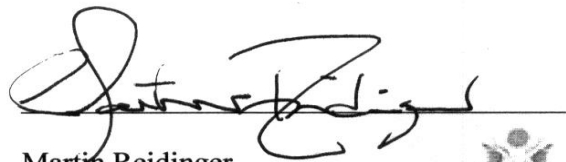
parties' status report, the Court entered a Pretrial Order and Case Management Plan, setting this matter for trial during the November 10, 2014 trial term. [Doc. 20]. On October 10, 2014, approximately thirty days prior to trial, Defendant Daniel International Corporation filed the present Motion for Partial Summary Judgment. [Doc. 21].

The Defendant's motion is clearly untimely. The parties were given the opportunity to file dispositive motions at the MDL, and the Defendant in fact did so. The Defendant is not entitled to a second bite at the apple, certainly not at this late date. Accordingly, the Defendant's present motion will be denied.

IT IS, THEREFORE, ORDERED that the Defendant's motion for Partial Summary Judgment [Doc. 21] is **DENIED**.

IT IS SO ORDERED.

Signed: October 15, 2014


Martin Reidinger
United States District Judge

